IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.46097 of 2005
BORAHAN DAS
Versus
STATE OF BIHAR
---

9 23.7.2008 Heard Mr. Alok Kumar Sinha the learned counsel for the petitioner, Dr. Mayanand Jha, learned A.P.P. for the State and Sri Alok Chuadhary, learned counsel for the Branch Manager, S.B.I. (O.P. No. 2).

The petitioner who figures as an accused in Dalsingsarai P.S. Case No. 203 of 2000 under sections 420, 467, 468 and 471 I.P.C. prays for quashing of the criminal proceedings including order dated 28.2.2002 passed therein by the learned Sub Divisional Judicial Magistrate, Dalsingsarai.

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The allegation against the petitioner is that he encashed a draft no. 158826 on 3.4.2000 and received the amount of Rs. 7,000/- instead of Rs. 1000/- by playing fraud and fabricating document. It has been submitted by the learned counsel for the petitioner that as soon as he came to know about the excess withdrawal of the amount he deposited the excess amount along with the interest thereupon for the period that the excess amount was in his custody.

The learned counsel for the Bank does not dispute the fact that amount paid in excess to the petitioner has been paid to Bank along with the interest occurring thereupon for the period the excess amount was in his custody.

Since the petitioner has relieved himself of any purported criminal liability following upon him it would be an abuse of the

process of the Court to continue the criminal proceeding initiated through Dalsingsarai P.S. Case No. 203 of 2000.

Accordingly the criminal proceeding so far as the petitioner is concerned is hereby quashed and the application is allowed.

Spd/- **(Abhijit Sinha, J.)**

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